

SUMMARY REPORT DIGEST-
COMPLAINT REGISTER INVESTIGATION NO.:
CHICAGO POLICE DEPARTMENT

247776

DATE OF REPORT (DAY-MO.-YEAR)
10 November 1998
16 December 1998T

To be used in all cases that are to be classified as either EXONERATED, UNFOUNDED, NOT SUSTAINED, or in SUSTAINED cases where the Disciplinary Recommendation does not exceed FIVE (5) DAYS SUSPENSION.

SUBMIT ORIGINAL AND 3 COPIES IF ASSIGNED TO SAME UNIT AS ACCUSED.
SUBMIT ORIGINAL AND 4 COPIES IF NOT ASSIGNED TO SAME UNIT AS ACCUSED.

TO: SUPERINTENDENT OF POLICE

ATTENTION ☒ ADMINISTRATOR IN CHARGE, OFFICE OF PROFESSIONAL STANDARDS
☐ ASSISTANT DEPUTY SUPERINTENDENT, INTERNAL AFFAIRS DIVISION

FROM-INVESTIGATOR'S NAME		RANK	STAR NO.	SOCIAL SEC. NO.	EMPLOYEE NO.	UNIT ASSIGN.
R.E.Fundarek		Inv.	96			113
ADDRESS OF INCIDENT		DATE OF INCIDENT - TIME		BEAT OF INCIDENT	LOCATION CODE*	
		01 August 98 2300		1231	17	
NAME		RANK	STAR NO.	SOCIAL SEC. NO.	EMPLOYEE NO.	UNIT ASSIGN.
1. Patrick McDonough		PO	19921			012
2. Robert J. Poholik		PO	10721			012
ACCUSED	SEX/RACE	D.O.B.	DATE OF APPOINTMENT		DUTY STATUS (TIME OF INCIDENT)	
	1. M/W		68	08 July 96	<input checked="" type="checkbox"/> ON DUTY <input type="checkbox"/> OFF DUTY	
					<input checked="" type="checkbox"/> SWORN <input type="checkbox"/> CIVILIAN	
					(01)	
ACCUSED	2. M/R		66	29 June 92	<input checked="" type="checkbox"/> ON DUTY <input type="checkbox"/> OFF DUTY	
					<input checked="" type="checkbox"/> SWORN <input type="checkbox"/> CIVILIAN	
					(01)	
IF APPLICABLE - DATE REQUESTED/INDICTED		CHARGES		COURT BRANCH	DISPOSITION & DATE	
1.						
2.						
COMPLAINANTS	NAME	ADDRESS**	CITY STATE	TELEPHONE	SEX/RACE	D.O.B./AGE
					M/B	48
VICTIMS	NAME	ADDRESS**	CITY STATE	TELEPHONE	SEX/RACE	D.O.B./AGE
WITNESSES	NAME	ADDRESS**	CITY STATE	TELEPHONE	SEX/RACE	D.O.B./AGE

SEE ATTACHED SHEET FOR ADDITIONAL ACCUSED, COMPLAINANTS, VICTIMS, WITNESSES.

ALLEGATIONS The complaint was received via telephone on 19 August 1998 at 0930 hours with the Office of Professional Standards. [redacted] alleged that on 01 August 1998 at 2300 hours Officer McDonough while in the vicinity of [redacted]: 1) sprayed him with pepper spray, twice, 2) struck him with a flashlight about his body and elbow, 3) kicked his feet from under him, causing him to fall to the ground and cut his hand on broken glass and 4) handcuffed him too tightly. It is further alleged that Officer Poholik 5) failed to take any action when he observed his partner physically abusing the complainant.

I.A.D. LOCATION CODES*

01 Food Sales/Restaurant	11 Public Transportation Veh./Facility
02 Tavern/Liquor Store	12 Park District Property
03 Other Business Establishment	13 Airport
04 Police Building	14 Public Property - Other
05 Lockup Facility	15 Other Private Premise
06 Police Maintenance Facility	16 Expressway/Interstate System
07 CPD Automotive Pound Facility	17 Public Way - Other
08 Other Police Property	18 Waterway, Incl. Park District
09 Police Communications System	19 Private Residence
10 Court Room	

I.A.D. PHYSICAL CONDICTION CODES†

01 No Visible Injury - Apparently Normal
02 No Visible Injury - Under Influence
03 Injured, Not Hospitalized
04 Injured, Not Hospitalized - Under Influence
05 Injured, Hospitalized
06 Injured, Hospitalized - Under Influence
07 Injured, Refused Medical Aid
08 Injured, Refused Medical Aid - Under Influence
09 Deceased
10 Deceased - Under Influence

* IF CPD MEMBER, LIST RANK, STAR, SOCIAL SECURITY, EMPLOYEE NOS. IN ADDRESS BOX, PAX/BELL IN TELEPHONE BOX

CPD-44.112A (1/84)

C.R. NO. 247776

Briefly summarize the investigation describing your efforts to prove or disprove the allegation(s). Indicate whether witnesses or evidence support or do not support the allegation(s).
In sustained cases ONLY, copies of the accused member's Summary of Previous Disciplinary Actions and Record of Previous Complimentary History will be included as attachments.

SUMMARY

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ATTACHMENTS	INVESTIGATIVE REPORTS-- SUPPORTING ALLEGATION LIST ATTACHMENT NUMBERS:	INVESTIGATIVE REPORTS-- SUPPORTING ACCUSED MEMBER(S) LIST ATTACHMENT NUMBERS:	PHYSICAL EVIDENCE LIST ATTACHMENT NUMBERS:	TOTAL NUMBER OF ATTACHMENTS SUBMITTED WITH THIS FILE:
	2	23,26	3,4a,4b	33

Summarize the findings and recommendations. Rule violations will be cited by number only. One overall recommendation for Disciplinary Action will be made by the investigator. The recommendation will be for ALL sustained findings; recommendations will NOT be made for each sustained allegation.
Example: 1. Violation noted, no disciplinary action warranted. 2. That the accused member be reprimanded. 3. That the accused member be suspended for days (not to exceed 5 days).

FINDINGS:

ALLEGATIONS #1 - #4 Not Sustained against Officer Patrick McDonough #19921

ALLEGATION #5 Not Sustained against Officer Robert J. Poholik #10721

APPROVED:

OPS Supervisor Michael J. Duffy, Sign #14

DATE INITIATED (DATE COMPLAINT WAS RECEIVED FOR INVESTIGATION) 24 August 98 DATE COMPLETED (DATE OF THIS REPORT) 10 November 98 ELAPSED TIME (TOTAL TIME EXPRESSED IN DAYS) 79 days

Investigator will initiate the Command Channel Review form by completing the Investigator's Section.

IF NECESSARY, USE AN 8 1/2 X 11" SHEET OF WHITE PAPER TO COPY ON ANY ITEM

SUMMARY:

██████████ related in his signed statement that on the date and time in question, he was walking in the area of ██████████ when he was approached by two officers in uniform, now known as Officers McDonough and Poholik. At that point, someone from a building yelled "50" and they thought he did. ██████████ stated that one of the officers picked up a plastic bag of rock cocaine. ██████████ was handcuffed because the officers thought it belonged to him. He was patted down and searched. He was then placed in the back seat of the squad car. He thought he was going to be taken directly to the station, but instead, was driven to ██████████ up the ramp. Officer McDonough said that he was going to try a little experiment on him and sprayed him directly in his eyes with pepper spray and asked him how this felt. When ██████████ said it didn't feel good. Officer McDonough sprayed him a second time. When this occurred, he was out of the squad car at the time and in handcuffs. ██████████ said that Officer McDonough then struck him on his right elbow, back of his left leg and left hip with a flashlight. Officer McDonough then kicked his legs out from under him and he fell to the ground, cutting his left hand on some glass.

██████████ said that at that time, a black Bronco with a railroad security guard drove down. He pulled up to the police car and there was a conversation between the guard and the officers. Then, Officer McDonough said that if they found nothing in the back of the squad car, he would be released. The officers moved the back seat of the squad car and found a hypodermic needle with a substance in it. Officer McDonough said it was heroin. Other officers arrived on the scene and one of them asked ██████████ why he was bleeding from his hand. Officer McDonough said he fell. After that ██████████ was taken to the station on Racine and Monroe. Officer McDonough whispered to him that he shouldn't say anything and that when he went to court, he would drop the charges against him. ██████████ said that when a white Sergeant asked him what happened, he told him that he fell down. ██████████ said that he did tell the lockup keeper that he wanted to go the hospital, and was taken to Cook County Hospital. He was treated and released and taken back to jail. When he came back to the station, his right arm was in a cast. He said that the hospital staff told him had torn ligaments.

The Arrest Report for ██████████ indicated that he was arrested on 31 July 1998 at 2330 hours, while in the vicinity of ██████████ Street by Officers McDonough and Poholik. The officers reported that the subject yelled "five-o" causing a crowd to disperse rapidly. He was placed into custody after a custodial search revealed one clear plastic bag containing white rock suspect cocaine. Also recovered was one hypo needle filled with suspect heroin from his right sleeve.

Plastic bags and needle were inventoried under ██████████

The Reporting Investigator went to the location of 16th and Ashland where ██████████ stated that this alleged incident occurred. There is a ramp that leads up to the railroad tracks. The

SUMMARY: (continued)

Reporting Investigator drove up this ramp and followed the road that runs adjacent to the tracks for approximately two blocks. The only building in the area is a factory. The Reporting Investigator could not locate any type of security building nor were there any security guards in the area.

The Medical Report for [REDACTED] indicated that he was admitted to the Cook County Hospital, escorted by the police on 01 August 1998, at 0133 hours. [REDACTED] stated to hospital personnel that he was hit with a stick and sprayed with pepper spray, while in police custody. The diagnoses revealed an [REDACTED] [REDACTED] was treated and released back into police custody. The Reporting Investigator interviewed [REDACTED] who treated [REDACTED] stated that he did not specifically recall treating [REDACTED] however, he did state a fractured elbow would not prevent a person from being mobile, but it would be very painful.

Photographs were taken of [REDACTED] by Evidence Technician L. Orpik, Star #4513 in the Office of Professional Standards at the request of Investigator R. E. Fundarek, Star #96. These photographs depict what appear to be handcuff marks to [REDACTED] right wrist.

Officer Gerald Kush, Star #18956, related in his signed report that on the date and time in question, he was working with his partner, Michael D'Ambrosia, on Beat 1254, when he observed Beat 1251, Officers Poholik and McDonough conducting a field interview of offender, [REDACTED]. When he and his partner approached the officers, the offender was being placed into custody for possession of a controlled substance. Officer Kush said that he did a protective pat down of the offender, which yielded one hypo needle from the offender's right shirt sleeve. [REDACTED] was then placed into Beat 1251 and transported to the 012th District. Officer Kush said that he and his partner were never at [REDACTED]. He stated that they left the area of [REDACTED] at approximately the same time as did Beat 1251 and transported to the 012th District. Officer Kush stated that he and his partner arrived at the 012th District Station approximately at the same time as did Officers McDonough and Poholik.

Officer Kush stated that at no time did [REDACTED] complain of any injury or physical abuse and never requested any medical attention. Officer Kush further stated that [REDACTED] never complained of being sprayed with pepper spray. Officer Kush said that he observed no signs of injury or physical abuse.

Officer D'Ambrosia, Star #12124, related in his signed report that he was working with Officer Kush when they observed Officers Poholik and McDonough conducting a field interview of [REDACTED] at [REDACTED]. Officer D'Ambrosia stated that he observed Officer Kush perform a protective pat down on [REDACTED] which yielded one hypo needle from [REDACTED] right

SUMMARY: (continued)

shirt sleeve. Officer D'Ambrosia observed no signs of injury or physical abuse to [REDACTED] nor did he complain of being injured or physically abused. Officer D'Ambrosia said that [REDACTED] never requested medical attention or complained about being sprayed with pepper spray.

Officer Patrick McDonough, Star #19921 related in his signed statement that on the date in question, he and his partner were patrolling the projects in the area of [REDACTED]. As they pulled up, a male yelled "SO". He and his partner exited their vehicle and approached the subject, now known as [REDACTED]. [REDACTED] had a plastic bag of suspect Crack Cocaine in his left hand. A needle was also found inside his right sleeve of the shirt he was wearing. [REDACTED] was placed inside a squad car and taken to the 012th District for processing. Officer McDonough said that [REDACTED] gave them no problems as far as he can recall. Officer McDonough said that [REDACTED] was never taken to [REDACTED] but was taken directly to the station. Officer McDonough said he observed a cut on [REDACTED] hand while they were at the station. Officer McDonough said that he did not know that [REDACTED] was taken to the hospital until it was revealed to him by the Reporting Investigator. He did not see [REDACTED] after he was brought in for processing. Officer McDonough said he did not know that [REDACTED] suffered a fractured elbow. He also said that he did not use pepper spray on the complainant during the course of his arrest. Officer McDonough said he did not strike [REDACTED] with a flashlight about his body and elbow and did not have to use pepper spray on him because they had no problem with him. Officer McDonough denies all allegations against him.

Officer Robert J. Poholik, Star #10721, related in his signed statement that he and his partner, Officer McDonough were in the [REDACTED] when they heard a male black shout [REDACTED]. They exited their vehicle and began a field interview at [REDACTED]. A protective pat down yielded narcotics in [REDACTED] left hand. [REDACTED] also had a syringe in the long sleeve of his shirt. [REDACTED] was handcuffed by Officer McDonough and placed in custody. Officer Poholik said he does not recall if Officers Kush and D'Ambrosia pulled up while [REDACTED] was being placed in the squad car or at the time he was being placed in handcuffs. Officer Poholik said that he and his partner transported [REDACTED] to the station for processing. He stated that Officers Kush and D'Ambrosia came to the station right after they arrived with [REDACTED] but did not follow them there.

Officer Poholik stated that he did not recall seeing [REDACTED] hand bleeding and said he did not ask to go to a hospital. Officer Poholik stated that [REDACTED] was not taken to [REDACTED] near the railroad track ramp. Officer Poholik said that he and his partner took [REDACTED] to the lockup and left. Officer Poholik stated that [REDACTED] was taken directly from 13th Street to the district for processing. Officer Poholik stated that he never observed his partner, Officer McDonough, or any officer physically abuse [REDACTED]. Officer Poholik further stated that [REDACTED]

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SUMMARY: (continued)

██████ was never sprayed with pepper spray. Officer Poholik stated that he did not know that ██████ was taken to the hospital because after taking him to the lockup, he and his partner left.

CONCLUSION:



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